

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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NICKI BOYD,

Plaintiff(s),

v.

LAS VEGAS DETENTION CENTER,

Defendant(s).

Case No. 2:14-CV-1775 JCM (VCF)

ORDER

Presently before the court is Magistrate Judge Ferenbach's report and recommendation. (Doc. # 2). *Pro se* plaintiff Nicki Boyd has not filed an objection and the deadline to do so has passed.

This court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge's report and recommendation, then the court is required to "make a de novo determination of those portions of the [report and recommendation] to which objection is made." 28 U.S.C. § 636(b)(1).

Where a party fails to object, however, the court is not required to conduct "any review at all . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge's report and recommendation where no objections have been filed. *See United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the district court when reviewing a report and recommendation to which no objections were made); *see also Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the view that district courts are not required to review "any issue that is not the subject of an objection."). Thus, if

1 there is no objection to a magistrate judge's recommendation, then this court may accept the
 2 recommendation without review. *See, e.g., Johnstone*, 263 F. Supp. 2d at 1226 (accepting,
 3 without review, a magistrate judge's recommendation to which no objection was filed).

4 Nevertheless, this court finds it appropriate to engage in a de novo review to determine
 5 whether to adopt the recommendation of the magistrate judge. Plaintiff submitted a complaint
 6 on October 24, 2014. (Doc. # 1). Because the court granted plaintiff's request to proceed *in*
 7 *forma pauperis*, the court screened the complaint under 28 U.S.C. § 1915(e)(2).

8 On October 28, 2014, the magistrate judge ordered plaintiff's complaint be filed, and then
 9 dismissed with leave to amend for two reasons. First, because plaintiff's injuries did not occur
 10 during her detention, her injuries could not be a result of defendant acting under color of state
 11 law. Therefore, plaintiff's complaint fails to state a claim upon which relief can be granted under
 12 42 U.S.C. § 1983.

13 Second, assuming plaintiff's complaint states a claim for personal injury, the court lacks
 14 subject matter jurisdiction to entertain her action.

15 Upon reviewing the recommendation and underlying briefs, and in light of plaintiff's
 16 failure to object, this court finds good cause appears to ADOPT the magistrate's findings in full.

17 Accordingly,

18 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that Magistrate Judge
 19 Ferenbach's report and recommendation (doc. # 2) be, and the same hereby, is ADOPTED.

20 IT IS FURTHER ORDERED that the complaint be DISMISSED with leave to amend.

21 IT IS FURTHER ORDERED that the plaintiff shall file her amended complaint no later
 22 than **thirty (30) days** from the issuance of this order.

23 DATED November 14, 2014.

24 
 25 UNITED STATES DISTRICT JUDGE
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